

1 ENGROSSED SENATE  
2 BILL NO. 320

By: Quinn of the Senate

3 and

4 Frix of the House

5  
6 An Act relating to the Public Competitive Bidding Act  
7 of 1974; amending 61 O.S. 2011, Section 113, as  
8 amended by Section 314, Chapter 304, O.S.L. 2012 (61  
9 O.S. Supp. 2016, Section 113), which relates to  
execution of contracts; modifying certain contract  
period; deleting obsolete language; and providing an  
effective date.

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 61 O.S. 2011, Section 113, as  
14 amended by Section 314, Chapter 304, O.S.L. 2012 (61 O.S. Supp.  
15 2016, Section 113), is amended to read as follows:

16 Section 113. A. Except as otherwise provided by law, within  
17 the period of time, not to exceed sixty (60) days, specified in the  
18 bid notice by the awarding public agency, a contract embodying the  
19 terms set forth in the bidding documents shall be executed by the  
20 awarding public agency and the successful bidder. No bidder shall  
21 obtain any property right in a contract awarded under the provisions  
22 of the Public Competitive Bidding Act of 1974 until the contract has  
23 been fully executed by both the bidder and the awarding public  
24 agency.

1       B. Except as otherwise provided by law, within the period of  
2 time specified in subsection A of this section, the following shall  
3 be provided by the contractor to the awarding public agency for  
4 contracts exceeding Fifty Thousand Dollars (\$50,000.00):

5       1. A bond or irrevocable letter of credit complying with the  
6 provisions of Section 1 of this title;

7       2. A bond in a sum equal to the contract price, with adequate  
8 surety, or an irrevocable letter of credit containing terms  
9 prescribed by the Construction and Properties Division of the Office  
10 of Management and Enterprise Services issued by a financial  
11 institution insured by the Federal Deposit Insurance Corporation or  
12 the Federal Savings and Loan Insurance Corporation for the benefit  
13 of the state, on behalf of the awarding public agency, in a sum  
14 equal to the contract price, to ensure the proper and prompt  
15 completion of the work in accordance with the provisions of the  
16 contract and bidding documents;

17       3. A bond in a sum equal to the contract price or an  
18 irrevocable letter of credit containing terms as prescribed by the  
19 Division issued by a financial institution insured by the Federal  
20 Deposit Insurance Corporation or the Federal Savings and Loan  
21 Insurance Corporation for the benefit of the state, on behalf of the  
22 awarding public agency, in a sum equal to the contract price, to  
23 protect the awarding public agency against defective workmanship and  
24 materials for a period of one (1) year after acceptance of the

1 project, except when the awarding public agency is the Department of  
2 Transportation or the Oklahoma Turnpike Authority, in such case the  
3 period shall be for one (1) year after project completion; and

4 4. Public liability and workers' compensation insurance during  
5 construction in reasonable amounts. A public agency may require the  
6 contractor to name the public agency and its architects or  
7 engineers, or both, as an additional assured under the public  
8 liability insurance, which requirement, if made, shall be  
9 specifically set forth in the bidding documents.

10 C. A single irrevocable letter of credit may be used to satisfy  
11 paragraphs 1, 2 and 3 of subsection B of this section, provided such  
12 single irrevocable letter of credit meets all applicable  
13 requirements of subsection B of this section.

14 If the contractor needs additional time in which to obtain the  
15 bond required pursuant to subsection B of this section, the  
16 contractor may request and the awarding agency may allow the  
17 contractor an additional sixty (60) days in which to obtain the  
18 bond.

19 D. 1. After the award of a contract, but prior to its  
20 execution, an awarding public agency, upon discovery of an  
21 administrative error in the award process that would void an  
22 otherwise valid award, may suspend the time of execution of the  
23 contract. The agency may rescind the award and readvertise for  
24 bids, or may direct correction of the error and award the contract

1 to the lowest responsible bidder, whichever shall be in the best  
2 interests of the state.

3 2. If the awarding public agency has a governing body, the  
4 agency shall, at the next regularly scheduled public business  
5 meeting of the governing body of the agency, upon the record,  
6 present to the governing body that an error has been made in the  
7 award process and shall state the nature of the error. The  
8 governing body, upon presentation of the facts of the error, may  
9 rescind the award and readvertise for bids, or may direct correction  
10 of the error and award the contract to the lowest responsible  
11 bidder, whichever shall be in the best interests of the state.

12 E. No public agency shall require for any public construction  
13 project, nor shall any general contractor submit a project bid based  
14 on acquiring or participating in, any wrap-up, wrap-around, or  
15 controlled insurance program. For the purposes of this subsection,  
16 "wrap-up, wrap-around, or controlled insurance program" means any  
17 insurance program that has the effect of disabling or rendering  
18 inapplicable any workers' compensation, commercial general  
19 liability, builders' risk, completed operations, or excess liability  
20 insurance coverage carried by a subcontractor that is engaged or to  
21 be engaged on a public construction project unless this is a cost  
22 savings to the public or the need exists for a specialized or  
23 complex insurance program and shall not apply to contracts less than  
24 Seventy-five Million Dollars (\$75,000,000.00).

~~F. This act shall not apply to the public construction projects of constitutional agencies which had authorized a wrap-up, wrap-around, or controlled insurance program on or before April 11, 2000.~~

SECTION 2. This act shall become effective November 1, 2017.

Passed the Senate the 15th day of March, 2017.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2017.

Presiding Officer of the House  
of Representatives